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HOUSE BILL 323

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Rick Miera

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

AN ACT

RELATING TO PUBLIC SCHOOLS; AUTHORIZING REVENUE BONDS FOR THE
PURPOSE OF PROVIDING THE MATCH REQUIRED FOR GRANTS TO STATE-
CHARTERED CHARTER SCHOOLS PURSUANT TO THE PUBLIC SCHOOL CAPITAL
OUTLAY ACT; CREATING THE CHARTER SCHOOL BONDING FUND; PROVIDING
FOR DISTRIBUTIONS OF GROSS RECEIPTS TAX REVENUE AND CERTAIN
DISTRIBUTIONS PURSUANT TO THE PUBLIC SCHOOL CAPITAL
IMPROVEMENTS ACT TO THE FUND; AUTHORIZING AN ADDITIONAL
PROPERTY TAX LEVY TO BE APPROVED BY THE VOTERS PURSUANT TO THE
PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act is
enacted to read:

"[NEW MATERIAL] DISTRIBUTION--CHARTER SCHOOL BONDING

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1 FUND--GROSS RECEIPTS TAX.--A distribution pursuant to Section
2 7-1-6.1 NMSA 1978 shall be made to the charter school bonding
3 fund from the net receipts attributable to the gross receipts
4 tax imposed by the Gross Receipts and Compensating Tax Act in
5 an amount necessary, as determined by the New Mexico finance
6 authority, to make the required debt service payments on
7 charter school bonds issued pursuant to the Charter Schools Act
8 and the New Mexico Finance Authority Act. The distribution
9 shall be made:

10 A. after the required distribution pursuant to
11 Section 7-1-6.4 NMSA 1978;

12 B. contemporaneously with other distributions of
13 net receipts attributable to the gross receipts tax for payment
14 of debt service on outstanding bonds or to a fund dedicated for
15 that purpose; and

16 C. prior to any other distribution of net receipts
17 attributable to the gross receipts tax."

18 Section 2. A new section of the Charter Schools Act is
19 enacted to read:

20 "[NEW MATERIAL] CHARTER SCHOOL BONDS AUTHORIZED--
21 CONDITIONS--PROCEDURE.--

22 A. The New Mexico finance authority is authorized
23 to issue and sell from time to time revenue bonds, known as
24 "charter school bonds", in an amount outstanding at any one
25 time not to exceed twenty million dollars (\$20,000,000),

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1 payable solely from the charter school bonding fund, in
2 compliance with the Charter Schools Act and the New Mexico
3 Finance Authority Act for the purpose of providing funding for
4 the capital needs of state-chartered charter schools as
5 determined pursuant to the Public School Capital Outlay Act.
6 The bonds may be issued when the division has certified the
7 need for the bonds and the conditions of Subsection C of this
8 section have been satisfied.

9 B. The net proceeds from the bonds are appropriated
10 to the division for the purpose of providing the share of the
11 cost of a capital outlay project for a state-chartered charter
12 school that is not funded from the public school capital outlay
13 fund.

14 C. Bonds shall not be issued pursuant to this
15 section unless:

16 (1) a state-chartered charter school has
17 applied for grant assistance pursuant to the Public School
18 Capital Outlay Act;

19 (2) the public school capital outlay council
20 has awarded a grant to the state-chartered charter school from
21 the public school capital outlay fund contingent upon the
22 issuance of charter school bonds to provide the share of the
23 project cost that will not be funded from the public school
24 capital outlay fund; and

25 (3) the division has determined that the

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1 state-chartered charter school has no other available money to
2 use for the capital outlay project.

3 D. Each series of bonds shall be issued pursuant to
4 the provisions of the New Mexico Finance Authority Act, except
5 as otherwise provided in the Charter Schools Act or the Public
6 School Capital Outlay Act."

7 Section 3. A new section of the Charter Schools Act is
8 enacted to read:

9 "[NEW MATERIAL] CHARTER SCHOOL BONDING FUND--PLEDGE OF
10 MONEY IN THE FUND.--

11 A. The "charter school bonding fund" is created as
12 a special fund within the New Mexico finance authority. The
13 fund shall be administered by the New Mexico finance authority
14 as a special account. The fund shall consist of gross receipts
15 tax revenues distributed to the fund by law, money distributed
16 to the fund pursuant to the provisions of the Public School
17 Capital Improvements Act and other transfers and appropriations
18 made to the fund. Earnings of the fund shall be credited to
19 the fund.

20 B. Money in the charter school bonding fund shall
21 be pledged irrevocably by the New Mexico finance authority for
22 the payment of principal and interest on all charter school
23 bonds issued pursuant to the Charter Schools Act and the New
24 Mexico Finance Authority Act. Money in the fund is
25 appropriated to the New Mexico finance authority for the

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1 purpose of paying debt service, including redemption premiums,
2 on the bonds and the expenses incurred in the issuance, payment
3 and administration of the bonds.

4 C. On the last day of January and July of each
5 year, the New Mexico finance authority shall estimate the
6 amount needed to make debt service payments on the charter
7 school bonds issued pursuant to the Charter Schools Act and the
8 New Mexico Finance Authority Act plus the amount that may be
9 needed for any required reserves, administrative expenses or
10 other obligations coming due during the next twelve months from
11 the charter school bonding fund. If the balance in the fund
12 exceeds the amount needed, an amount shall be transferred to
13 the general fund, equal to the lesser of:

14 (1) the excess amount in the fund; or

15 (2) the total distributions of gross receipts
16 tax revenue previously made to the fund minus the total of
17 previous transfers to the general fund pursuant to this
18 subsection.

19 D. Charter school bonds issued pursuant to the
20 Charter Schools Act and the New Mexico Finance Authority Act
21 shall be payable solely from the charter school bonding fund or
22 such other special funds as may be provided by law and do not
23 create an obligation or indebtedness of the state within the
24 meaning of any constitutional provision. A breach of any
25 contractual obligation incurred pursuant to those acts shall

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1 not impose a pecuniary liability or a charge upon the general
2 credit or taxing power of the state, and the bonds are not
3 general obligations for which the state's full faith and credit
4 are pledged.

5 E. The state does hereby pledge that the charter
6 school bonding fund shall be used only for the purposes
7 specified in this section and pledged first to pay the debt
8 service on the charter school bonds. The state further pledges
9 that any law authorizing the distribution of taxes or other
10 revenues to the fund or authorizing expenditures from the fund
11 shall not be amended or repealed or otherwise modified so as to
12 impair the bonds to which the fund is dedicated as provided in
13 this section."

14 Section 4. A new section of the Charter Schools Act is
15 enacted to read:

16 "[NEW MATERIAL] CHARTER SCHOOL BONDS--FULL AUTHORITY TO
17 ISSUE--BONDS ARE LEGAL INVESTMENTS.--

18 A. The Charter Schools Act and the New Mexico
19 Finance Authority Act shall, without reference to any other act
20 of the legislature, be the full authority for the issuance and
21 sale of charter school bonds, which bonds shall have all the
22 qualities of investment securities under the Uniform Commercial
23 Code and shall not be invalid for any irregularity or defect or
24 be contestable in the hands of bona fide purchasers or holders
25 of the bonds for value.

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1 B. Charter school bonds are legal investments for
2 any person or board charged with the investment of any public
3 funds and are acceptable as security for any deposit of public
4 money."

5 Section 5. A new section of the Charter Schools Act is
6 enacted to read:

7 "[NEW MATERIAL] BONDS TAX EXEMPT.--All charter school
8 bonds shall be exempt from taxation by the state or any of its
9 political subdivisions."

10 Section 6. Section 22-24-5 NMSA 1978 (being Laws 1975,
11 Chapter 235, Section 5, as amended) is amended to read:

12 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
13 APPLICATION--GRANT ASSISTANCE.--

14 A. Applications for grant assistance, the approval
15 of applications, the prioritization of projects and grant
16 awards shall be conducted pursuant to the provisions of this
17 section.

18 B. Except as provided in Sections 22-24-4.3,
19 22-24-5.4, [~~and~~] 22-24-5.6 and 22-24-5.8 NMSA 1978, the
20 following provisions govern grant assistance from the fund for
21 a public school capital outlay project not wholly funded
22 pursuant to Section 22-24-4.1 NMSA 1978:

23 (1) all school districts are eligible to apply
24 for funding from the fund, regardless of percentage of
25 indebtedness;

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1 (2) priorities for funding shall be determined
2 by using the statewide adequacy standards developed pursuant to
3 Subsection C of this section; provided that:

4 (a) the council shall apply the
5 standards to charter schools to the same extent that they are
6 applied to other public schools; and

7 (b) in an emergency in which the health
8 or safety of students or school personnel is at immediate risk
9 or in which there is a threat of significant property damage,
10 the council may award grant assistance for a project using
11 criteria other than the statewide adequacy standards;

12 (3) the council shall establish criteria to be
13 used in public school capital outlay projects that receive
14 grant assistance pursuant to the Public School Capital Outlay
15 Act. In establishing the criteria, the council shall consider:

16 (a) the feasibility of using design,
17 build and finance arrangements for public school capital outlay
18 projects;

19 (b) the potential use of more durable
20 construction materials that may reduce long-term operating
21 costs; and

22 (c) any other financing or construction
23 concept that may maximize the dollar effect of the state grant
24 assistance;

25 (4) no more than ten percent of the combined

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1 total of grants in a funding cycle shall be used for
2 retrofitting existing facilities for technology infrastructure;

3 (5) except as provided in Paragraph (6) or (8)
4 of this subsection, the state share of a project approved and
5 ranked by the council shall be funded within available
6 resources pursuant to the provisions of this paragraph. No
7 later than May 1 of each calendar year, a value shall be
8 calculated for each school district in accordance with the
9 following procedure:

10 (a) the final prior year net taxable
11 value for a school district divided by the MEM for that school
12 district is calculated for each school district;

13 (b) the final prior year net taxable
14 value for the whole state divided by the MEM for the state is
15 calculated;

16 (c) excluding any school district for
17 which the result calculated pursuant to Subparagraph (a) of
18 this paragraph is more than twice the result calculated
19 pursuant to Subparagraph (b) of this paragraph, the results
20 calculated pursuant to Subparagraph (a) of this paragraph are
21 listed from highest to lowest;

22 (d) the lowest value listed pursuant to
23 Subparagraph (c) of this paragraph is subtracted from the
24 highest value listed pursuant to that subparagraph;

25 (e) the value calculated pursuant to

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1 Subparagraph (a) of this paragraph for the subject school
2 district is subtracted from the highest value listed in
3 Subparagraph (c) of this paragraph;

4 (f) the result calculated pursuant to
5 Subparagraph (e) of this paragraph is divided by the result
6 calculated pursuant to Subparagraph (d) of this paragraph;

7 (g) the sum of the property tax mill
8 levies for the prior tax year imposed by each school district
9 on residential property pursuant to Chapter 22, Article 18 NMSA
10 1978, the Public School Capital Improvements Act, the Public
11 School Buildings Act, the Education Technology Equipment Act
12 and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978
13 is calculated for each school district;

14 (h) the lowest value calculated pursuant
15 to Subparagraph (g) of this paragraph is subtracted from the
16 highest value calculated pursuant to that subparagraph;

17 (i) the lowest value calculated pursuant
18 to Subparagraph (g) of this paragraph is subtracted from the
19 value calculated pursuant to that subparagraph for the subject
20 school district;

21 (j) the value calculated pursuant to
22 Subparagraph (i) of this paragraph is divided by the value
23 calculated pursuant to Subparagraph (h) of this paragraph;

24 (k) if the value calculated for a
25 subject school district pursuant to Subparagraph (j) of this

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1 paragraph is less than five-tenths, then, except as provided in
2 Subparagraph (n) or (o) of this paragraph, the value for that
3 school district equals the value calculated pursuant to
4 Subparagraph (f) of this paragraph;

5 (l) if the value calculated for a
6 subject school district pursuant to Subparagraph (j) of this
7 paragraph is five-tenths or greater, then that value is
8 multiplied by five-hundredths;

9 (m) if the value calculated for a
10 subject school district pursuant to Subparagraph (j) of this
11 paragraph is five-tenths or greater, then the value calculated
12 pursuant to Subparagraph (l) of this paragraph is added to the
13 value calculated pursuant to Subparagraph (f) of this
14 paragraph. Except as provided in Subparagraph (n) or (o) of
15 this paragraph, the sum equals the value for that school
16 district;

17 (n) in those instances in which the
18 calculation pursuant to Subparagraph (k) or (m) of this
19 paragraph yields a value less than one-tenth, one-tenth shall
20 be used as the value for the subject school district;

21 (o) in those instances in which the
22 calculation pursuant to Subparagraph (k) or (m) of this
23 paragraph yields a value greater than one, one shall be used as
24 the value for the subject school district;

25 (p) except as provided in Section

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1 22-24-5.7 NMSA 1978 and except as reduced pursuant to Paragraph
2 (6) of this subsection, the amount to be distributed from the
3 fund for an approved project shall equal the total project cost
4 multiplied by a fraction, the numerator of which is the value
5 calculated for the subject school district in the current year
6 plus the value calculated for that school district in each of
7 the two preceding years and the denominator of which is three;
8 and

9 (q) as used in this paragraph: 1) "MEM"
10 means the average full-time-equivalent enrollment of students
11 attending public school in a school district on the eightieth
12 and one hundred twentieth days of the prior school year; and 2)
13 "total project cost" means the total amount necessary to
14 complete the public school capital outlay project less any
15 insurance reimbursement received by the school district for the
16 project;

17 (6) the amount calculated pursuant to
18 Subparagraph (p) of Paragraph (5) of this subsection shall be
19 reduced by the following procedure:

20 (a) the total of all legislative
21 appropriations made after January 1, 2003 for nonoperating
22 purposes either directly to the subject school district or to
23 another governmental entity for the purpose of passing the
24 money through directly to the subject school district, and not
25 rejected by the subject school district, but excluding

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1 educational technology appropriations made prior to January 1,
2 2005 and reauthorizations of appropriations previously made to
3 the subject school district, is calculated; provided that an
4 appropriation made in a fiscal year shall be deemed to be
5 accepted by a school district unless, prior to June 1 of that
6 fiscal year, the school district notifies the department of
7 finance and administration and the public education department
8 that the district is rejecting the appropriation; provided
9 further that the total shall be increased by an amount,
10 certified to the council by the department, equal to the
11 educational technology appropriations made to the subject
12 school district on or after January 1, 2003 and prior to
13 January 1, 2005 and not previously used to offset distributions
14 pursuant to the Technology for Education Act;

15 (b) the applicable fraction used for the
16 subject school district and the current calendar year for the
17 calculation in Subparagraph (p) of Paragraph (5) of this
18 subsection is subtracted from one;

19 (c) the value calculated pursuant to
20 Subparagraph (a) of this paragraph for the subject school
21 district is multiplied by the amount calculated pursuant to
22 Subparagraph (b) of this paragraph for that school district;

23 (d) the total amount of reductions for
24 the subject school district previously made pursuant to
25 Subparagraph (e) of this paragraph for other approved public

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1 school capital outlay projects is subtracted from the amount
2 calculated pursuant to Subparagraph (c) of this paragraph; and

3 (e) the amount calculated pursuant to
4 Subparagraph (p) of Paragraph (5) of this subsection shall be
5 reduced by the amount calculated pursuant to Subparagraph (d)
6 of this paragraph;

7 (7) as used in Paragraphs (5) and (6) of this
8 subsection, "subject school district" means the school district
9 that has submitted the application for funding and in which the
10 approved public school capital outlay project will be located;

11 (8) the council may adjust the amount of local
12 share otherwise required if it determines that a school
13 district has used all of its local resources. Before making
14 any adjustment to the local share, the council shall consider
15 whether:

16 (a) the school district has insufficient
17 bonding capacity over the next four years to provide the local
18 match necessary to complete the project and, for all
19 educational purposes, has a residential property tax rate of at
20 least ten dollars (\$10.00) on each one thousand dollars
21 (\$1,000) of taxable value, as measured by the sum of all rates
22 imposed by resolution of the local school board plus rates set
23 to pay interest and principal on outstanding school district
24 general obligation bonds;

25 (b) the school district: 1) has fewer

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1 than an average of eight hundred full-time-equivalent students
2 on the eightieth and one hundred twentieth days of the prior
3 school year; 2) has at least seventy percent of its students
4 eligible for free or reduced-fee lunch; 3) has a share of the
5 total project cost, as calculated pursuant to provisions of
6 this section, that would be greater than fifty percent; and 4)
7 for all educational purposes, has a residential property tax
8 rate of at least seven dollars (\$7.00) on each one thousand
9 dollars (\$1,000) of taxable value, as measured by the sum of
10 all rates imposed by resolution of the local school board plus
11 rates set to pay interest and principal on outstanding school
12 district general obligation bonds; or

13 (c) the school district has: 1) an
14 enrollment growth rate over the previous school year of at
15 least two and one-half percent; 2) pursuant to its five-year
16 facilities plan, will be building a new school within the next
17 two years; and 3) for all educational purposes, has a
18 residential property tax rate of at least ten dollars (\$10.00)
19 on each one thousand dollars (\$1,000) of taxable value, as
20 measured by the sum of all rates imposed by resolution of the
21 local school board plus rates set to pay interest and principal
22 on outstanding school district general obligation bonds; and

23 (9) no application for grant assistance from
24 the fund shall be approved unless the council determines that:

25 (a) the public school capital outlay

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1 project is needed and included in the school district's
2 five-year facilities plan among its top priorities;

3 (b) the school district has used its
4 capital resources in a prudent manner;

5 (c) the school district has provided
6 insurance for buildings of the school district in accordance
7 with the provisions of Section 13-5-3 NMSA 1978;

8 (d) the school district has submitted a
9 five-year facilities plan that includes: 1) enrollment
10 projections; 2) a current preventive maintenance plan that has
11 been approved by the council pursuant to Section 22-24-5.3 NMSA
12 1978 and that is followed by each public school in the
13 district; 3) the capital needs of charter schools located in
14 the school district; and 4) projections for the facilities
15 needed in order to maintain a full-day kindergarten program;

16 (e) the school district is willing and
17 able to pay any portion of the total cost of the public school
18 capital outlay project that, according to Paragraph (5), (6) or
19 (8) of this subsection, is not funded with grant assistance
20 from the fund; provided that school district funds used for a
21 project that was initiated after September 1, 2002 when the
22 statewide adequacy standards were adopted, but before September
23 1, 2004 when the standards were first used as the basis for
24 determining the state and school district share of a project,
25 may be applied to the school district portion required for that

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1 project;

2 (f) the application includes the capital
3 needs of any charter school located in the school district or
4 the school district has shown that the facilities of the
5 charter school have a smaller deviation from the statewide
6 adequacy standards than other district facilities included in
7 the application; and

8 (g) the school district has agreed, in
9 writing, to comply with any reporting requirements or
10 conditions imposed by the council pursuant to Section 22-24-5.1
11 NMSA 1978.

12 C. After consulting with the public school capital
13 outlay oversight task force and other experts, the council
14 shall regularly review and update statewide adequacy standards
15 applicable to all school districts. The standards shall
16 establish the acceptable level for the physical condition and
17 capacity of buildings, the educational suitability of
18 facilities and the need for technological infrastructure.
19 Except as otherwise provided in the Public School Capital
20 Outlay Act, the amount of outstanding deviation from the
21 standards shall be used by the council in evaluating and
22 prioritizing public school capital outlay projects.

23 D. It is the intent of the legislature that grant
24 assistance made pursuant to this section allows every school
25 district to meet the standards developed pursuant to Subsection
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1 C of this section; provided, however, that nothing in the
2 Public School Capital Outlay Act or the development of
3 standards pursuant to that act prohibits a school district from
4 using local funds to exceed the statewide adequacy standards.

5 E. Upon request, the council shall work with, and
6 provide assistance and information to, the public school
7 capital outlay oversight task force.

8 F. The council may establish committees or task
9 forces, not necessarily consisting of council members, and may
10 use the committees or task forces, as well as existing agencies
11 or organizations, to conduct studies, conduct surveys, submit
12 recommendations or otherwise contribute expertise from the
13 public schools, programs, interest groups and segments of
14 society most concerned with a particular aspect of the
15 council's work.

16 G. Upon the recommendation of the public school
17 facilities authority, the council shall develop building
18 standards for public school facilities and shall promulgate
19 other such rules as are necessary to carry out the provisions
20 of the Public School Capital Outlay Act.

21 H. No later than December 15 of each year, the
22 council shall prepare a report summarizing its activities
23 during the previous fiscal year. The report shall describe in
24 detail all projects funded, the progress of projects previously
25 funded but not completed, the criteria used to prioritize and

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1 fund projects and all other council actions. The report shall
2 be submitted to the public education commission, the governor,
3 the legislative finance committee, the legislative education
4 study committee and the legislature."

5 Section 7. A new section of the Public School Capital
6 Outlay Act, Section 22-24-5.8 NMSA 1978, is enacted to read:

7 "22-24-5.8. [NEW MATERIAL] PROCEDURES FOR A STATE-
8 CHARTERED CHARTER SCHOOL.--A state-chartered charter school may
9 apply for grant assistance for a capital project pursuant to
10 the Public School Capital Outlay Act. All of the provisions of
11 that act apply to such an application except:

12 A. the portion of the cost of the project to be
13 paid from the fund shall be calculated pursuant to Paragraph
14 (5) of Subsection B of Section 22-24-5 NMSA 1978 using data
15 from the school district in which the state-chartered charter
16 school is located;

17 B. the amount calculated pursuant to Subparagraph
18 (p) of Paragraph (5) of Subsection B of Section 22-24-5 NMSA
19 1978 shall not be reduced pursuant to Paragraph (6) of that
20 subsection but shall be reduced by the total of all legislative
21 appropriations made after January 1, 2007 for nonoperating
22 purposes either directly to the charter school or to another
23 governmental entity for the purpose of passing the money
24 through directly to the charter school. The reduction shall be
25 made regardless of whether the charter school is a state-

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1 chartered charter school at the time of the appropriation or
2 later opts to become a state-chartered charter school; and

3 C. in determining, pursuant to Subparagraph (e) of
4 Paragraph (9) of Subsection B of Section 22-24-5 NMSA 1978,
5 whether the state-chartered charter school is able to pay the
6 portion of the total cost of the capital outlay project that is
7 not funded with grant assistance from the fund, the council may
8 award the grant assistance contingent upon the issuance of
9 charter school bonds."

10 Section 8. Section 22-25-1 NMSA 1978 (being Laws 1975
11 (S.S.), Chapter 5, Section 1) is amended to read:

12 "22-25-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 25
13 NMSA 1978 may be cited as the "Public School Capital
14 Improvements Act"."

15 Section 9. Section 22-25-3 NMSA 1978 (being Laws 1975
16 (S.S.), Chapter 5, Section 3, as amended) is amended to read:

17 "22-25-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT
18 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION--DISTRIBUTION
19 OF A PORTION OF THE PROCEEDS TO THE CHARTER SCHOOL BONDING
20 FUND.--

21 A. A local school board may adopt a resolution to
22 submit to the qualified electors of the school district the
23 question of whether a property tax should be imposed upon the
24 net taxable value of property allocated to the school district
25 under the Property Tax Code at a rate not to exceed that

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1 specified in the resolution for the purpose of capital
2 improvements [~~in the school district~~]. The resolution shall:

3 ~~[A.]~~ (1) identify the capital improvements for
4 which the revenue proposed to be produced will be used, and, if
5 a state-chartered charter school is physically located in the
6 district, shall include a statement that a portion of the
7 revenue will be used for capital improvements at state-
8 chartered charter schools;

9 ~~[B.]~~ (2) specify the rate of the proposed tax,
10 which shall not exceed two dollars (\$2.00) on each one thousand
11 dollars (\$1,000) of net taxable value of property allocated to
12 the school district under the Property Tax Code;

13 ~~[C.]~~ (3) specify the date an election will be
14 held to submit the question of imposition of the tax to the
15 qualified electors of the district; and

16 ~~[D.]~~ (4) limit the imposition of the proposed
17 tax to no more than six property tax years.

18 B. Revenue from a tax approved by the qualified
19 electors on or after July 1, 2007 and attributable to state-
20 chartered charter schools located within the school district
21 shall be distributed by the county treasurer directly to the
22 charter school bonding fund. The amount of tax revenue
23 attributable to each state-chartered charter school shall be
24 determined each year and shall be the same proportion of the
25 revenue as the full-time-equivalent enrollment of the state-

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1 chartered charter school on the fortieth day of the prior
2 school year is to the total such enrollment in the district;
3 provided that, in the case of a state-chartered charter school
4 that had not commenced classroom instruction in the prior
5 school year, the proportion shall be based on the estimated
6 full-time-equivalent enrollment of the charter school and the
7 school district on the fortieth day of the current school year,
8 as determined by the department. The secretary shall calculate
9 and notify the county treasurer of the proportion of the
10 revenue to be distributed to the charter school bonding fund."

11 Section 10. A new section of the Public School Capital
12 Improvements Act, Section 22-25-3.1 NMSA 1978, is enacted to
13 read:

14 "22-25-3.1. [NEW MATERIAL] AUTHORIZATION FOR ADDITIONAL
15 MILLAGE.--

16 A. In addition to the tax imposed pursuant to
17 Section 22-25-3 NMSA 1978, a local school board may adopt a
18 resolution to submit to the qualified electors of the school
19 district the question of whether a property tax should be
20 imposed upon the net taxable value of property allocated to the
21 school district under the Property Tax Code at a rate not to
22 exceed that specified in the resolution for the purpose of
23 capital improvements in the school district. The resolution
24 shall:

25 (1) identify the capital improvements for

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1 which the revenue proposed to be produced will be used, and, if
2 a state-chartered charter school is physically located in the
3 district, shall include a statement that a portion of the
4 revenue will be used for capital improvements at state-
5 chartered charter schools;

6 (2) specify the rate of the proposed tax,
7 which shall not exceed one dollar (\$1.00) on each one thousand
8 dollars (\$1,000) of net taxable value of property allocated to
9 the school district under the Property Tax Code;

10 (3) specify the date an election will be held
11 to submit the question of imposition of the tax to the
12 qualified electors of the school district; and

13 (4) limit the imposition of the proposed tax
14 to no more than six property tax years.

15 B. Revenue from a tax authorized by this section
16 and approved by the qualified electors and attributable to
17 state-chartered charter schools located within the school
18 district shall be distributed by the county treasurer directly
19 to the charter school bonding fund. The amount of tax revenue
20 attributable to each state-chartered charter school shall be
21 determined each year and shall be the same proportion of the
22 revenue as the full-time-equivalent enrollment of the state-
23 chartered charter school on the fortieth day of the prior
24 school year is to the total such enrollment in the district;
25 provided that, in the case of a state-chartered charter school

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1 that had not commenced classroom instruction in the prior
2 school year, the proportion shall be based on the estimated
3 full-time-equivalent enrollment of the charter school and the
4 school district on the fortieth day of the current school year,
5 as determined by the department. The secretary shall calculate
6 and notify the county treasurer of the proportion of the
7 revenue to be distributed to the charter school bonding fund.

8 C. All provisions of the Public School Capital
9 Improvements Act that apply to the tax imposition provided for
10 in Section 22-25-3 NMSA 1978 apply to the tax imposition
11 provided for in this section except that a tax imposed pursuant
12 to this section shall not be taken into account when
13 calculating the state distribution pursuant to Section 22-25-9
14 NMSA 1978."

15 Section 11. Section 22-25-7 NMSA 1978 (being Laws 1975
16 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

17 "22-25-7. IMPOSITION OF TAX--LIMITATION ON
18 EXPENDITURES.--If as a result of an election held in accordance
19 with the Public School Capital Improvements Act a majority of
20 the qualified electors voting on the question vote in favor of
21 the imposition of the tax, the tax rate shall be certified,
22 unless the local school board requests by resolution that a
23 rate be discontinued, by the department of finance and
24 administration at the rate specified in the resolution
25 authorized under Section 22-25-3 or 22-25-3.1 NMSA 1978 or at
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1 any lower rate required by operation of the rate limitation
2 provisions of Section 7-37-7.1 NMSA 1978 upon the rate
3 specified in the resolution and be imposed at the rate
4 certified in accordance with the provisions of the Property Tax
5 Code. The revenue produced by the tax and, except as provided
6 in Subsection F, G or H of Section 22-25-9 NMSA 1978, any state
7 distribution [~~resulting~~] to the district under the Public
8 School Capital Improvements Act shall be expended only for the
9 capital improvements specified in the authorizing resolution."

10 Section 12. Section 22-25-9 NMSA 1978 (being Laws 1975
11 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

12 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
13 TAX UNDER CERTAIN CIRCUMSTANCES.--

14 A. Except as provided in Subsection C, [~~or~~] G or H
15 of this section, the secretary shall distribute to any school
16 district that has imposed a tax [~~under the Public School~~
17 ~~Capital Improvements Act~~] authorized pursuant to Section
18 22-25-3 NMSA 1978 an amount from the public school capital
19 improvements fund that is equal to the amount by which the
20 revenue estimated to be received from the imposed tax, at the
21 rate authorized pursuant to Section 22-25-3 NMSA 1978 and
22 certified by the department of finance and administration in
23 accordance with Section 22-25-7 NMSA 1978, assuming a one
24 hundred percent collection rate, is less than an amount
25 calculated by multiplying the school district's first forty

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1 days' total program units by the amount specified in Subsection
2 B of this section and further multiplying the product obtained
3 by the tax rate approved by the qualified electors in the most
4 recent election on the question of imposing a tax under the
5 Public School Capital Improvements Act. The distribution shall
6 be made each year that the tax is imposed in accordance with
7 Section 22-25-7 NMSA 1978; provided that no state distribution
8 from the public school capital improvements fund may be used
9 for capital improvements to any administration building of a
10 school district. In the event that sufficient funds are not
11 available in the public school capital improvements fund to
12 make the state distribution provided for in this section, the
13 dollar per program unit figure shall be reduced as necessary.

14 B. In calculating the state distribution pursuant
15 to Subsection A of this section, the following amounts shall be
16 used:

17 (1) the amount calculated pursuant to
18 Subsection D of this ~~[subsection]~~ section per program unit; and

19 (2) an additional amount certified to the
20 secretary by the public school capital outlay council. No
21 later than June 1 of each year, the council shall determine the
22 amount needed in the next fiscal year for public school capital
23 outlay projects pursuant to the Public School Capital Outlay
24 Act and the amount of revenue, from all sources, available for
25 the projects. If, in the sole discretion of the council, the

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1 amount available exceeds the amount needed, the council may
2 certify an additional amount pursuant to this paragraph;
3 provided that the sum of the amount calculated pursuant to this
4 paragraph plus the amount in Paragraph (1) of this subsection
5 shall not result in a total statewide distribution that, in the
6 opinion of the council, exceeds one-half of the total revenue
7 estimated to be received from taxes imposed pursuant to the
8 Public School Capital Improvements Act.

9 C. For any fiscal year, notwithstanding the amount
10 calculated to be distributed pursuant to Subsections A and B of
11 this section, except as provided in Subsection G or H of this
12 section, a school district, the voters of which have approved a
13 tax pursuant to Section 22-25-3 NMSA 1978, shall not receive a
14 distribution less than the amount calculated pursuant to
15 Subsection E of this section, multiplied by the school
16 district's first forty days' total program units and further
17 multiplying the product obtained by the approved tax rate.

18 D. For purposes of calculating the distribution
19 pursuant to Subsection B of this section, the amount used in
20 Paragraph (1) of that subsection shall equal sixty dollars
21 (\$60.00) in fiscal year 2006 and in each subsequent fiscal year
22 shall equal the amount for the previous fiscal year adjusted by
23 the percentage increase between the next preceding calendar
24 year and the preceding calendar year of the consumer price
25 index for the United States, all items, as published by the

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1 United States department of labor.

2 E. For purposes of calculating the minimum
3 distribution pursuant to Subsection C of this section, the
4 amount used in that subsection shall equal five dollars (\$5.00)
5 through fiscal year 2005 and in each subsequent fiscal year
6 shall equal the amount for the previous fiscal year adjusted by
7 the percentage increase between the next preceding calendar
8 year and the preceding calendar year of the consumer price
9 index for the United States, all items, as published by the
10 United States department of labor.

11 F. In expending distributions made pursuant to this
12 section, school districts shall give priority to maintenance
13 projects, including payments under contracts for maintenance
14 support services. In addition, distributions made pursuant to
15 this section may be expended by school districts for the school
16 district portion of the total project cost for roof repair or
17 replacement required by Section 22-24-4.3 NMSA 1978.

18 G. If a serious deficiency in a roof of a public
19 school facility has been corrected pursuant to Section
20 22-24-4.4 NMSA 1978 and the school district has refused to pay
21 its share of the cost as determined by that section, until the
22 public school capital outlay fund is reimbursed in full for the
23 share attributed to the district, the distribution calculated
24 pursuant to this section shall not be made to the school
25 district but shall be made to the public school capital outlay

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1 fund.

2 H. An amount attributable to state-chartered
3 charter schools located in a school district shall not be
4 distributed to the school district but shall be distributed by
5 the secretary from the public school capital improvements fund
6 to the charter school bonding fund. The total amount that
7 would otherwise be distributed to a school district pursuant to
8 this section, without considering the provisions of this
9 subsection, shall be reduced by the amount attributable to the
10 state-chartered charter schools located in that school
11 district. The amount attributable to each state-chartered
12 charter school shall be determined each year as follows:

13 (1) the full-time-equivalent enrollment of the
14 state-chartered charter school on the fortieth day of the prior
15 school year is divided by the total such enrollment at all
16 public schools in the district; provided that, in the case of a
17 state-chartered charter school that had not commenced classroom
18 instruction in the prior school year, the estimated
19 full-time-equivalent enrollment of the charter school and the
20 school district on the fortieth day of the current school year
21 shall be used, as determined by the department; and

22 (2) the amount attributable to the state-
23 chartered charter school equals the quotient calculated in
24 Paragraph (1) of this subsection multiplied by the total amount
25 that would otherwise be distributed to the school district

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1 pursuant to this section, without considering the provisions of
2 this subsection.

3 [H.] I. In making distributions pursuant to this
4 section, the secretary shall include such reporting
5 requirements and conditions as are required by rule of the
6 public school capital outlay council. The council shall adopt
7 such requirements and conditions as are necessary to ensure
8 that the distributions are expended in the most prudent manner
9 possible and are consistent with the original purpose as
10 specified in the authorizing resolution. Copies of reports or
11 other information received by the secretary in response to the
12 requirements and conditions shall be forwarded to the council."

13 Section 13. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2007.

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